

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

LORI LEIGH BARHAM,

Plaintiff,

v.

**NANCY A. BERRYHILL, Acting
Commissioner of Social Security,**

Defendant.

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Case No. CIV-18-151-G

ORDER

On March 29, 2019, the Court entered an Opinion and Order and a Judgment reversing the decision of the Acting Commissioner and remanding this case for further proceedings. *See* Doc. Nos. 21, 22. Plaintiff Lori Leigh Barham now requests an award of attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. *See* Pl.'s Mots. Att'y Fees (Doc. Nos. 23, 25). Defendant has notified the Court that the parties have stipulated to a request of \$3500 in EAJA fees in this matter. *See* Doc. No. 25.

Having considered Plaintiff's unopposed request and the relevant record, the Court finds that: "(1) [P]laintiff is a 'prevailing party'; (2) the position of the United States was not 'substantially justified'; and (3) there are no special circumstances that make an award of fees unjust" in this case. *Hackett v. Barnhart*, 475 F.3d 1166, 1172 (10th Cir. 2007) (quoting 28 U.S.C. § 2412(d)(1)(A)). The Court therefore GRANTS Plaintiff's request (Doc. Nos. 23, 25) and awards fees in the amount of \$3500, with said amount to be paid directly to Plaintiff and sent in care of Gary W. Jones, 414 NW 4th Street, Suite 140, Oklahoma City, Oklahoma 73102. If attorney's fees are also awarded under 42 U.S.C. §

406(b), Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 23rd day of May, 2019.



CHARLES B. GOODWIN
United States District Judge